

Executive Summary – Enforcement Matter – Case No. 47084
The Vineyard Shopping Center II, L.P.
RN102747243
Docket No. 2013-1203-EAQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

EAQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Fund Unit 16, located at the northwest corner of the intersection Loop 1604 and Blanco Road, San Antonio, Bexar County

Type of Operation:

Commercial project

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: January 10, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,500

Amount Deferred for Expedited Settlement: \$2,100

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$8,400

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 47084
The Vineyard Shopping Center II, L.P.
RN102747243
Docket No. 2013-1203-EAQ-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 27, 2013 through May 1, 2013

Date(s) of NOE(s): May 21, 2013

Violation Information

1. Failed to obtain approval of a modification to an approved Water Pollution Abatement Plan ("WPAP") prior to initiating construction of the modification. Specifically, during the investigation it was documented that the approved sedimentation/filtration basin had been modified without approval. The WPAP, approved on August 7, 2000, includes a proposed design for the sedimentation/filtration basin 3 with the outlet draining the treated storm water to the southeast corner of the Site. At the time of the investigation, it was documented that a wet well had been installed which directed treated storm water into a detention basin immediately adjacent to the sedimentation/filtration basin [30 TEX. ADMIN. CODE § 213.4(j)(1) and Edwards Aquifer Protection Plan ("EAPP") File No. 1466.00 Standard Conditions No. 4.]

2. Failed to maintain the sedimentation/filtration basin in accordance with the approved plan. Specifically, the geotextile material used to separate the sand filtration media and the gravel layer is protruding through the sand media and the area where the geotextile is affixed to the wall can be seen, which should be underneath 18" of sand media as represented in the approved design [30 TEX. ADMIN. CODE § 213.4(k) and EAPP File No. 1466.00 Standard Condition No. 17].

3. Failed to submit a Texas Licensed Professional Engineer ("P.E.") certification certifying that the three water quality basins were constructed as approved [30 TEX. ADMIN. CODE § 213.5(b)(4)(D) and EAPP File No. 1466.00 Standard Condition No. 16]

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

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RN102747243
Docket No. 2013-1203-EAQ-E

- i. Submit a WPAP modification application for the wet well installed on the sedimentation/filtration basin for review and approval.
 - ii. Respond completely and adequately, as determined by the TCEQ to all information concerning the EAPP modification within 30 days;
 - iii. If a WPAP modification is not pursued, reconstruct sedimentation/filtration basin no. 3 to its original state; and
 - iv. Begin maintaining the sedimentation/filtration basin in accordance with the approved plan. Specifically, repair the geotextile and ensure that the geotextile is underneath 18" of sand media.
- b. Within 45 days, submit written certification of compliance with Order Provision a.
- c. Within 120 days, submit a Texas Licensed P.E. certification demonstrating that water quality basins nos. 1, 2, and 3 were constructed as approved.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Johnny Stevens, Manager, The Vineyard Shopping Center II, L.P., P.O. Box 782257, Wichita, Kansas 67278
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	28-May-2013	Screening	7-Jun-2013	EPA Due	
	PCW	4-Oct-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	The Vineyard Shopping Center II, L.P.		
Reg. Ent. Ref. No.	RN102747243		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	47084	No. of Violations	1	
Docket No.	2013-1203-EAQ-E	Order Type	1660	
Media Program(s)	Water Quality	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Cheryl Thompson	
		EC's Team	Enforcement Team 3	
Admin. Penalty \$ Limit Minimum		\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for Compliance History.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,703
Approx. Cost of Compliance: \$3,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$3,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,000
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DEFERRAL	20.0% Reduction	Adjustment	-\$600
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$2,400
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Screening Date 7-Jun-2013

Docket No. 2013-1203-EAQ-E

PCW

Respondent The Vineyard Shopping Center II, L.P.

Policy Revision 2 (September 2002)

Case ID No. 47084

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102747243

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for Compliance History.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 7-Jun-2013

Docket No. 2013-1203-EAQ-E

PCW

Respondent The Vineyard Shopping Center II, L.P.

Policy Revision 2 (September 2002)

Case ID No. 47084

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102747243

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 213.5(b)(4)(D) and Edwards Aquifer Protection Plan File No. 1466.00 Standard Condition No. 16

Violation Description

Failed to submit the Texas Licensed Professional Engineer certification certifying that the three water quality basins were constructed as approved.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

100 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$3,000

Three single events are recommended, one for each basin.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,703

Violation Final Penalty Total \$3,000

This violation Final Assessed Penalty (adjusted for limits) \$3,000

Economic Benefit Worksheet

Respondent The Vineyard Shopping Center II, L.P.
Case ID No. 47084
Req. Ent. Reference No. RN102747243
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,000	27-Sep-2002	31-Jan-2014	11.35	\$1,703	n/a	\$1,703

Notes for DELAYED costs

Estimated cost to submit the professional engineers certification. Date required is the approximate date that the basins were completed. Final date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

TOTAL

\$1,703



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	28-May-2013	Screening	7-Jun-2013	EPA Due	
	PCW	4-Oct-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	The Vineyard Shopping Center II, L.P.				
Reg. Ent. Ref. No.	RN102747243				
Facility/Site Region	13-San Antonio			Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	47084	No. of Violations	2
Docket No.	2013-1203-EAQ-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Cheryl Thompson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$7,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes No adjustment for Compliance History.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$285
Approx. Cost of Compliance \$6,150
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$7,500**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$7,500**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$7,500**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,500**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$6,000**

Screening Date 7-Jun-2013

Docket No. 2013-1203-EAQ-E

PCW

Respondent The Vineyard Shopping Center II, L.P.

Policy Revision 3 (September 2011)

Case ID No. 47084

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102747243

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for Compliance History.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 7-Jun-2013

Docket No. 2013-1203-EAQ-E

PCW

Respondent The Vineyard Shopping Center II, L.P.

Policy Revision 3 (September 2011)

Case ID No. 47084

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102747243

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 213.4(j)(1) and Edwards Aquifer Protection Plan File No. 1466.00 Standard Conditions No. 4

Violation Description

Failed to obtain approval of a modification to an approved Water Pollution Abatement Plan ("WPAP") prior to initiating construction of the modification. Specifically, during the investigation it was documented that the approved sedimentation/filtration basin had been modified without approval. The WPAP, approved on August 7, 2000, includes a proposed design for the sedimentation/filtration basin 3 with the outlet draining the treated storm water to the southeast corner of the Site. At the time of the investigation it was documented that a wet well had been installed which directed treated storm water into a detention basin immediately adjacent to the sedimentation/filtration basin.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 4

100 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

Four monthly events are recommended from the period of February 27, 2013 (date of investigation) to June 7, 2013 (screening date).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV		NOV to EDPRP/Settlement Offer
	Extraordinary	Ordinary	
N/A	x		(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$146

Violation Final Penalty Total \$5,000

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent The Vineyard Shopping Center II, L.P.
Case ID No. 47084
Req. Ent. Reference No. RN102747243
Media Edwards Aquifer
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$3,150	27-Feb-2013	31-Jan-2014	0.93	\$146	n/a	\$146
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost (\$650 modification fee and \$2,500 for the cost to develop and submit the application) to obtain approval of the modification before construction activity began. Date required is the investigation date. Final date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,150

TOTAL

\$146

Screening Date 7-Jun-2013

Docket No. 2013-1203-EAQ-E

PCW

Respondent The Vineyard Shopping Center II, L.P.

Policy Revision 3 (September 2011)

Case ID No. 47084

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102747243

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 213.4(k) and Edwards Aquifer Protection Plan File No. 1466.00 Standard Condition No. 17

Violation Description

Failed to maintain the sedimentation/filtration basin in accordance with the approved plan. Specifically, the geotextile material used to separate the sand filtration media and the gravel layer is protruding through the sand media and the area where the geotextile is affixed to the wall can be seen, which should be underneath 18" of sand media as represented in the approved design.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be been exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

100 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended from the period of February 27, 2013 (date of investigation) to June 7, 2013 (screening date).

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$139

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent The Vineyard Shopping Center II, L.P.
Case ID No. 47084
Reg. Ent. Reference No. RN102747243
Media Edwards Aquifer
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,000	27-Feb-2013	31-Jan-2014	0.93	\$139	n/a	\$139

Notes for DELAYED costs

Estimated cost to repair the geotextile and ensure that the geotextile is underneath 18" of sand media.
 Date required is the date of the investigation. Final date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

TOTAL

\$139

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEO Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN604303909, RN102747243, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN604303909, The Vineyard Shopping Center II, L.P.	Classification: NOT APPLICABLE	Rating: N/A
Regulated Entity:	RN102747243, FUND UNIT 16	Classification: NOT APPLICABLE	Rating: N/A
Complexity Points:	N/A	Repeat Violator:	N/A

CH Group:	14 - Other
Location:	NORTHWEST CORNER OF THE INTERSECTION OF LOOP 1604 AND BLANCO ROAD IN SAN ANTONIO, BEXAR, BEXAR COUNTY, TEXAS
TCEQ Region:	REGION 13 - SAN ANTONIO

ID Number(s):
EDWARDS AQUIFER PERMIT 13-00040501

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: June 18, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 18, 2008 to June 18, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Cheryl Thompson **Phone:** (817) 588-5886

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES , when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
THE VINEYARD SHOPPING
CENTER II, L.P.
RN102747243**

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§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2013-1203-EAQ-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding The Vineyard Shopping Center II, L.P. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a commercial project located at the northwest corner of the intersection of Loop 1604 and Blanco Road in San Antonio, Bexar County, Texas (the "Site").
2. The Site adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 26, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Ten Thousand Five Hundred Dollars (\$10,500) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Eight Thousand Four Dollars (\$8,400) of the administrative penalty and Two Thousand One Hundred Dollars (\$2,100) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to obtain approval of a modification to an approved Water Pollution Abatement Plan ("WPAP") prior to initiating construction of the modification, in violation of 30 TEX. ADMIN. CODE § 213.4(j)(1) and Edwards Aquifer Protection Plan ("EAPP") File No. 1466.00 Standard Conditions No. 4, as documented during an investigation conducted on February 27, 2013. Specifically, during the investigation it was documented that the approved sedimentation/filtration basin had been modified without approval. The WPAP, approved on August 7, 2000, includes a proposed design for the sedimentation/filtration basin 3 with the outlet draining the treated storm water to the southeast corner of the Site. At the time of the investigation it was documented that a wet well had been installed which directed treated storm water into a detention basin immediately adjacent to the sedimentation/filtration basin.
2. Failed to maintain the sedimentation/filtration basin in accordance with the approved plan, in violation of 30 TEX. ADMIN. CODE § 213.4(k) and Edwards Aquifer Protection Plan File No. 1466.00 Standard Condition No. 17, as documented during an investigation conducted on February 27, 2013. Specifically, the geotextile material used to separate the sand filtration media and the gravel layer is protruding through the sand media and

the area where the geotextile is affixed to the wall can be seen, which should be underneath 18" of sand media as represented in the approved design.

3. Failed to submit a Texas Licensed Professional Engineer ("P.E.") certification certifying that the three water quality basins were constructed as approved, in violation of 30 TEX. ADMIN. CODE § 213.5(b)(4)(D) and Edwards Aquifer Protection Plan File No. 1466.00 Standard Condition No. 16, as documented during an investigation conducted on February 27, 2013.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: The Vineyard Shopping Center II, L.P., Docket No. 2013-1203-EAQ-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days of the effective date of this Agreed Order:

- i. Submit a WPAP modification application for the wet well installed on the sedimentation/filtration basin for review and approval to:

Edwards Aquifer Protection Program
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

- ii. Respond completely and adequately, as determined by the TCEQ to all information concerning the EAPP modification within 30 days after the date of such request or by any other deadline specified in writing;

- iii. If a WPAP modification is not pursued, reconstruct sedimentation /filtration basin No. 3 to its original state, in accordance with the existing approved plan; and
- iv. Begin maintaining the sedimentation/filtration basin in accordance with the approved plan. Specifically, repair the geotextile and ensure that the geotextile is underneath 18" of sand media.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Order Provisions No. 2.a.i through 2.a.iv, as described below in Ordering Provision No. 2.d.
- c. Within 120 days after the effective date of this Agreed Order, submit a Texas Licensed P.E. certification demonstrating that water quality basins Nos. 1, 2 and 3 were constructed as approved, as described below in Ordering Provisions No. 2.d; and
- d. All certification required by Ordering Provision Nos. 2.b and 2.c shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Edwards Aquifer Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Randy Bowen
For the Executive Director

6/16/14
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Johnny Stevens
Signature

11-4-13
Date

Johnny STEVENS
Name (Printed or typed)
Authorized Representative of
The Vineyard Shopping Center II, L.P.

Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.